IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION No. 4694 OF 2007

Smt. Suman Prakash Shingne & ors.
v.
Krushnarao Mahadeorao Manekar & ors.

Office Notes, Office Memoranda of Coram appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders

Mr.O.W.Gupta Advocate for the Petitioners.

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CORAM: A.B. CHAUDHARI, J.
DATED : 11th OCTOBER, 2007.

Heard Mr.Gupta, learned counsel for petitioners. From the submissions made by him it appears that the petitioners have already filed a suit for setting aside ex parte judgment and decree passed against them way back in the year 1999. This suit appears to have been filed in the year 2006. He states that he has also filed an application for grant of stay and the same is pending. According to him, in Regular Darkhast No.82 of 1990 that was filed by the respondents, this application under Order XXI Rule 97 read with Section 151 of the Code of Civil Procedure, has been

rejected by the impugned order. Perusal of the impugned order shows that the Executing Court has rejected the said application holding that mere pendency of the suit is not enough to stay the execution proceedings. That appears to be correct view of the matter. However, since the application for injunction is pending in the suit, following order would meet the ends of justice.

2. Proceedings in Regular Darkhast No.82 of 1990 are stayed only for fifteen days from today to enable the petitioners to move the Civil Court where suit has been filed by the petitioners for setting aside the ex parte judgment and decree. In the meanwhile, the petitioners may take whatever steps are available in law. With these observations, writ petition is rejected.

JUDGE

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